

JUL 15 2019



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

Region IX
75 Hawthorne St
San Francisco, CA 94105

ENFORCEMENT AND COMPLIANCE
ASSURANCE DIVISION

7018 0360 0000 6461 0983

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

IN THE MATTER OF: American Muffler

American Muffler
7849 Raytheon Road
San Diego, California 92111

ATTENTION: Bret Richardson, Owner

Request for Information Under § 208(a) of the Clean Air Act, 42 U.S.C. § 7542(a)

The United States Environmental Protection Agency ("EPA") hereby requires American Muffler ("American Muffler" or "you") to submit certain information as part of an EPA investigation to determine American Muffler's compliance with Section 203 of the Clean Air Act ("CAA"), 42 U.S.C. § 7522, and the applicable regulations at 40 C.F.R. Parts 85, 86, and 1068. Examples of vehicles regulated under these Parts include, but are not limited to, diesel trucks and light-duty gasoline vehicles. Appendix A provides definitions, Appendix B provides instructions for your responses to this request, and Appendix C specifies the information that you must submit.

The EPA issues this Request for Information ("Information Request") under Section 208(a) of the CAA, 42 U.S.C. § 7542(a). Under Section 208(a), the Administrator of the EPA may require any person who is subject to the CAA to provide information necessary to determine whether the person has acted in compliance with these requirements and the regulations promulgated thereunder. The Administrator has delegated this authority to the undersigned Manager of Region 9's Air Enforcement Office, Enforcement and Compliance Assurance Division.

You must submit responses to this Information Request to the EPA representative listed below within thirty (30) calendar days from the date you receive this letter. Please carefully review the instructions, definitions, and specific requests as you prepare your response. If you anticipate being unable to fully respond to the Information Request by this date, you must contact Matt Salazar at (415) 972-3982 or Salazar.Matt@epa.gov to request an extension. Any such request should be made as soon as possible after receipt of this Information Request and must include an explanation of why an extension is necessary and include a proposed timeline

for providing the requested information. The EPA will review your request and may extend the time in which your response must be provided to some or all of the questions.

Failure to provide the requested information may result in the initiation of a civil action pursuant to Section 205(b) of the CAA, 42 U.S.C. § 7524(b). Failure to provide all requested information in its entirety, and in the format requested, may result in additional inquiries and penalties. Pursuant to Sections 208 and 307 of the CAA, 42 U.S.C. §§ 7542(a)–(b), 7607(a), EPA may request additional information, inspections, or depositions. It is important that your responses be clear, accurate, organized, and complete. We will regard any information that is misleading, false, incomplete, or submitted without regard to its accuracy as a violation of the CAA and/or criminal statutes. We may use any information submitted in response to this Information Request in an administrative, civil, or criminal action.

You must submit all requested information under an authorized signature with the following certification (provided in Appendix E):

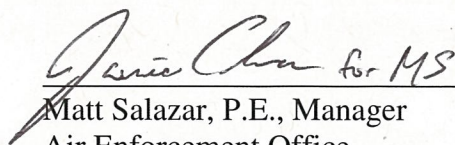
I certify under penalty of law that I have examined and am familiar with the information in the enclosed documents, including all attachments. Based on my inquiry of those individuals with primary responsibility for obtaining the information, I certify that the statements and information are, to the best of my knowledge and belief, true and complete. I am aware that there are significant penalties for knowingly submitting false statements and information, including the possibility of fines or imprisonment pursuant to Section 113(c)(2) of the Clean Air Act, 42 U.S.C. § 7413(c)(2), and 18 U.S.C. §§ 1001 and 1341.

You may be entitled to assert a business confidentiality claim covering all or part of the information provided in response to this Information Request as specified in the Confidentiality of Business Information (“CBI”) regulations, 40 C.F.R. Part 2, Subpart B. However, no CBI claim may be made with respect to emissions data as defined at 40 C.F.R. § 2.301(a)(2). You must specify the page, paragraph, and sentence when identifying the information subject to your CBI claim. Appendix E of this Information Request specifies the assertion and substantiation requirements for business confidentiality claims. EPA may, without further notice, provide the public with any information not subject to a CBI claim.

Please provide all requested information, via electronic or overnight delivery, to:

Matt Salazar, Manager, Air Enforcement Office
Enforcement and Compliance Assurance Division
Attn: Scott Connolly
U.S. Environmental Protection Agency, Region 9
75 Hawthorne St. (ENF-2-1)
San Francisco, CA 94105

Any questions concerning this Information Request should be directed to Matt Salazar at (415) 972-3982 or Salazar.Matt@epa.gov or have your attorney contact Ryan Bickmore in the Office of Regional Counsel at (415) 972-3058 or Bickmore.Ryan@epa.gov.

Handwritten signature of Matt Salazar, P.E., Manager, in cursive script.

Matt Salazar, P.E., Manager
Air Enforcement Office
Enforcement and Compliance Assurance
Division
EPA Region 9 – San Francisco

Appendix A

Definitions

All terms used in this Information Request will have their ordinary meaning unless such terms are defined below or in the CAA, 42 U.S.C. §§ 7401 et seq., or the Motor Vehicle Regulations found at 40 C.F.R. Parts 85, 86, and 1068, in which case they shall have their meanings as defined therein.

1. The term “person” includes an individual, corporation, partnership, or association. *See* Section 302(e) of the CAA, 42 U.S.C. § 7602(e).
2. The term “emission related parts” means those parts installed for the specific purpose of controlling emissions, or those components, systems, or elements of design which must function properly to assure continued vehicle emission compliance, as defined in 40 C.F.R. § 85.2102.
3. The term “electronic control module” or “ECM” means a device that receives inputs from various sensors and outputs signals to control engine, vehicle, or equipment functions.
4. The term “engine management product” or “EM product” means any device or product capable of accessing, altering, or replacing the software programming, calculations, computer logic, tables of information (e.g., fuel timing maps), coding, or other content or information stored within or used by an ECM. EM products include, but are not limited to, programmers, modules, tuners, ECM calibration tools, replacement ECMs, flash tools, or engine management products.
5. The term “engine tune,” “tune,” or “calibration” means any combination of software programming, calculations, computer logic, tables of information (e.g., fuel timing maps), coding, or other content or information, stored in any form, capable of affecting or controlling an ECM.
6. The term “product” includes any software code, software, hardware, program, calibration, engine tune, EM product, device, part, or component.
7. The term “exhaust product” means exhaust components designed for use downstream from the exhaust port of a motor vehicle engine, and include, but are not limited to, exhaust gas recirculation (“EGR”) block plates, EGR delete kits, exhaust replacement pipes, and straight pipes.

Appendix B

Instructions for Responses

1. Please provide your response to this Information Request in hard copy or electronic form on a disk (CD or DVD media), flash drive, hard drive, or similar digital data storage device.
2. Provide copies of documents, not original documents.
3. Where documents or information necessary for a response is not in your possession, custody, or control, indicate in your response why such documents or information are not available or in your possession, custody, or control, and identify any source that either possesses or is likely to possess such information.
4. Where you have previously submitted information to the EPA that is responsive to any of the Requests set forth in Appendix C, re-submit that information in accordance with these instructions (Appendix B). Identify the material that was previously provided, the date on which it was provided, how the information was provided (e.g., electronically, fax, mail), and the individual at the EPA to whom it was provided.
5. If you assert any objections in responding to this Information Request, each objection must state with specificity the grounds for objecting to the request, including the reasons, and must state whether any responsive materials are being withheld on the basis of that objection.
6. This Request for Information is a continuing request. You must promptly supplement your response to any Request in Appendix C in the event you learn that you possess responsive information not yet produced or if you gain possession, custody, or control of responsive information after responding to this Information Request.

Appendix C

Information Request

American Muffler (or “you”) must submit the following information to the United States Environmental Protection Agency pursuant to Section 208 of the CAA, 42 U.S.C. § 7542, regarding the installation or sale of parts and products.

1. Copies of invoices for all work performed by American Muffler from January 1, 2018, through the date of this Information Request, including work involving removal of emission related parts or the installation of any product.
2. Copies of invoices for all engine management (EM) products sold by American Muffler from January 1, 2018, through the date of this Information Request
3. Copies of invoices for all exhaust products sold by American Muffler from January 1, 2018, through the date of this Information Request.

Appendix D

Confidential Business Information

An entity may assert a business confidentiality claim covering all or part of the information provided in response to this Information Request for any business information entitled to confidential treatment under Section 208(c) of the CAA, 42 U.S.C. § 7542, and 40 C.F.R. Part 2, subpart B. Under Section 208(c) of the CAA, entities are entitled to confidential treatment of information that would divulge methods or processes entitled to protection as trade secrets. Under 40 C.F.R. Part 2, subpart B, business confidentiality means “the concept of trade secrecy and other related legal concepts which give (or may give) a business the right to preserve the confidentiality of business information and to limit its use or disclosure by others in order that the business may obtain or retain business advantages it derives from its rights in the information.” 40 C.F.R. § 2.201(e).

Information covered by a claim of business confidentiality will be disclosed by the EPA only to the extent, and by means of the procedures, set forth in Section 208(c) of the CAA and 40 C.F.R. Part 2, subpart B. EPA will construe a failure to furnish a business confidentiality claim with a response to this Information Request as a waiver of that claim, and the information may be made available to the public without further notice.

Pursuant to 40 C.F.R. § 2.301(h), the EPA possesses the authority to disclose to any authorized representative of the United States information which might otherwise be entitled to confidential treatment. To assist in its review and analysis, the EPA may disclose information provided in response to this and other information requests to an EPA contractor, the Eastern Research Group, under contract number 68HERH19C0004. *See* 84 Fed. Reg. 8859, 59-60 (Mar. 12, 2019). An entity may submit any comments to the EPA with its assertion of a business confidentiality claim.

To assert a business confidentiality claim, an entity must place on (or attach to) all information subject to the claim either a cover sheet, stamped or typed legend, or other suitable form of notice employing language such as “trade secret,” “proprietary,” or “company confidential” at the time it provides its response to this Information Request. Allegedly confidential portions of otherwise non-confidential documents should be clearly identified, and may be provided separately to facilitate identification and handling by the EPA. An entity should indicate whether confidential treatment is only required until a certain date or until the occurrence of a certain event.

The criteria the EPA will use in determining whether material claimed as business confidential is entitled to confidential treatment are set forth at 40 C.F.R. §§ 2.208 and 2.301. These regulations provide, among other things, that an entity must satisfactorily show that: (1) the information is within the scope of business confidentiality as defined at 40 C.F.R. § 2.201(e), (2) that it has taken reasonable measures to protect the confidentiality of the information and that it intends to continue to do so, (3) the information is not and has not been reasonably obtainable by legitimate means without its consent, and (4) the disclosure of the information is likely to cause substantial harm to its business’s competitive edge. *See* 40 C.F.R. §§ 2.208 (a)-(e). Emission data, as

defined at 40 C.F.R. § 2.301(a)(2), is expressly not entitled to confidential treatment under 40 C.F.R. Part 2, subpart B. *See* 42 U.S.C. § 7542(c); 40 C.F.R. § 2.301(e).

If an entity asserts a claim of business confidentiality in connection with information and documents forwarded in response to this Information Request, in accordance with 40 C.F.R. § 2.204(e)(4), it must answer the following questions with respect to any information or document for which it asserts a claim of business confidentiality:

1. What specific portions of the information are allegedly to be entitled to confidential treatment? Specify by page, paragraph, and sentence when identifying the information subject to the claim.
2. For what period of time do you request that the information be maintained as confidential (*e.g.*, until a certain date, until the occurrence of a specified event or permanently)? If the occurrence of a specific event will eliminate the need for confidentiality, specify that event. Additionally, explain why the information should be protected for the time period you have specified.
3. What measures have you taken to protect the information claimed as confidential from undesired disclosure? Have you disclosed the information to anyone other than a governmental body or someone who is bound by an agreement not to disclose the information further? If so, why should the information still be considered confidential?
4. Is the information contained in any publicly available material such as the Internet, publicly available databases, promotional publications, annual reports or articles? Is there any means by which a member of the public could obtain access to the information? Is the information of a kind that you would customarily not release to the public?
5. Has any governmental body made a determination as to the confidentiality of the information? If so, please attach a copy of the determination.
6. For each category of information claimed as confidential, explain with specificity whether disclosure of the information is likely to result in substantial harm to your competitive position. Explain the specific nature of that harm, why they should be viewed as substantial, and the causal relationship between disclosure and such harmful effect. How could your competitors make use of this information to your detriment?
7. Is there any other explanation you deem relevant to the EPA's determination of your business confidentiality claim that is not covered in the preceding requests? If so, you may provide such additional explanation.

An entity must furnish responses to the above questions concurrent with its response to this Information Request if it has claimed any information as business confidential. *See* 40 C.F.R. § 2.204(e)(2). Pursuant to 40 C.F.R. § 2.205(b)(2), an entity may request an extension of this deadline.

The EPA will construe a failure to furnish timely responses to the above questions as a waiver of any confidentiality claim, consistent with 40 C.F.R. § 2.204(e)(1). Please provide responses to:

Matt Salazar, Manager, Air Enforcement Office
Enforcement and Compliance Assurance Division
Attn: Scott Connolly
U.S. Environmental Protection Agency, Region 9
75 Hawthorne Street (ENF-2-1)
San Francisco, CA 94105

Pursuant to 40 C.F.R. § 2.205(c), be hereby advised that information provided as part of any comments may be entitled to confidential treatment if, when it is received by the EPA, it is marked in accordance with 40 C.F.R. § 2.203(b). As required by 40 C.F.R. § 2.204(e)(6), an entity may assert a business confidentiality claim covering all or part of its response to these Requests, as provided in 40 C.F.R. § 2.203(b). Information covered by such a business confidentiality claim will be disclosed by the EPA only to the extent, and by means of the procedures, set forth in Section 208(c) of the CAA and 40 C.F.R. Part 2. The EPA will construe the failure to furnish a confidentiality claim with the comments as a waiver of that claim, and the information may be made available to the public without further notice.

Appendix E

Statement of Certification

You are submitting the enclosed documents in response to the U.S. Environmental Protection Agency's ("EPA") Information Request, issued pursuant to Section 208(a) of the Clean Air Act, to determine compliance with the Clean Air Act and its affiliated regulations.

I certify that I am fully authorized by _____ [corporate affiliation] to provide the above information on its behalf to EPA.

I certify under penalty of law that I have examined and am familiar with the information in the enclosed documents, including all attachments. Based on my inquiry of those individuals with primary responsibility for obtaining the information, I certify that the statements and information are, to the best of my knowledge and belief, true and complete. I am aware that there are significant penalties for knowingly submitting false statements and information, including the possibility of fines or imprisonment pursuant to Section 113(c)(2) of the Clean Air Act, 42 U.S.C. § 7413(c)(2), and 18 U.S.C. §§ 1001 and 1341.

Date: _____

Name (Printed): _____

Signature: _____

Title: _____

INSPECTION REPORT

Attached please find the United States Environmental Protection Agency's (EPA's) inspection report of your inspected facility and/or any vehicles/engines identified therein. EPA is providing this report as a matter of agency policy and will contact you again only if needed.

Without making a determination that your business or organization is a small business, EPA is also providing you with a link to this Small Business Resources Information Sheet (<https://www.epa.gov/compliance/small-business-resources-information-sheet>) which provides an array of resources to help small businesses understand and comply with federal and state environmental laws.

Inspection Information	
Inspection Date(s):	5/29/19
EPA Region/Program Conducting Inspection:	Region 9/Enforcement and Compliance Assurance Division
Company Name:	American Muffler
Facility Name:	American Muffler
Facility Physical Location: (street address, building/unit #)	7849 Raytheon Rd
(city, state, zip code)	San Diego, CA 92111

Inspection Report Revision History		
Revision #	Revision Date	Reason for Revision

Inspector and Approval

Rose Galar
Field Inspector Name

[Signature]
Signature

6/3/19
Date

MATT SAUER
Name of Approving Official

[Signature]
Signature

7.9.19
Date

FACILITY INSPECTION WORKSHEET

(Supplemental notes or narrative format may be used as preferred).

General Inspection Information			
Facility Name:	American Muffler	Inspection Date	Click or tap to enter a date. 5/29/19
Facility Address:	7849 Raytheon Rd. San Diego, CA 92111	Arrival/Departure Time	9:50am
Primary Facility Representative & Title:	Brett Richardson / Owner	Inspection Number/ID:	201905290950
Facility Contact Phone/Email:	858-277-0276	Inspector(s):	Galer Dancher
Time Inspector Presented Credentials:	9:50am	Compliance Assistance Reference Materials Provided to Facility	<input type="checkbox"/> SBREFA Form <input type="checkbox"/> Exhaust Repair Guidelines
Permission to Enter Facility Granted? If Yes, by whom? If No, explain.	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No Owner refused entry		<input type="checkbox"/> Memo 1A <input type="checkbox"/> Tampering Brochure
			<input type="checkbox"/> Engine Switch Fact Sheet <input checked="" type="checkbox"/> Other: None provided on 5/29/19
Photographer Name:	Dancher	Photograph Range:	# 4165
Notes (e.g. compliance actions taken by facility, purchased samples, other relevant background, etc.):	Inspectors were denied entry on 5/29/19. Areas of concern include website advertisements for Custom and performance exhaust systems.		

Facility Business Activities			
Types of Services (check all that apply)		Description/Observations (types and brands of parts that are manufactured or sold, types of shop services provided, etc.)	Estimated Throughput (e.g., sales per month, installs per week)
<input type="checkbox"/>	Manufactures aftermarket parts (hardware or software)		
<input checked="" type="checkbox"/>	Sells aftermarket part sales (including drop shipments)	Company website advertises custom and performance exhausts. Owner did not provide any information to inspectors.	Unknown
<input checked="" type="checkbox"/>	Service shop	Installation/repair shop. Appeared to have a pipe bender and metal pipes (raw materials) for custom exhaust systems.	Unknown
<input type="checkbox"/>	Fleet		
<input type="checkbox"/>	Other:		

Personnel Interviewed			
Name	Title/Position	Contact Info. (e.g., email, phone number)	Interviewed by (Last name of Inspector)
Brett Richardson	Owner	858-277-0276	Refused interview by inspectors.

Documents Requested		
Document(s)	Status	Notes/Comments
	<input type="checkbox"/> Document(s) Provided <input type="checkbox"/> Document(s) Denied <input type="checkbox"/> Will Provide After Inspection <input checked="" type="checkbox"/> Other (see notes)	None requested due to denial of entry.
	<input type="checkbox"/> Document(s) Provided <input type="checkbox"/> Document(s) Denied <input type="checkbox"/> Will Provide After Inspection <input type="checkbox"/> Other (see notes)	
	<input type="checkbox"/> Document(s) Provided <input type="checkbox"/> Document(s) Denied <input type="checkbox"/> Will Provide After Inspection <input type="checkbox"/> Other (see notes)	
	<input type="checkbox"/> Document(s) Provided <input type="checkbox"/> Document(s) Denied <input type="checkbox"/> Will Provide After Inspection <input type="checkbox"/> Other (see notes)	
	<input type="checkbox"/> Document(s) Provided <input type="checkbox"/> Document(s) Denied <input type="checkbox"/> Will Provide After Inspection <input type="checkbox"/> Other (see notes)	
	<input type="checkbox"/> Document(s) Provided <input type="checkbox"/> Document(s) Denied <input type="checkbox"/> Will Provide After Inspection <input type="checkbox"/> Other (see notes)	

Vehicles Inspected/Observed				
VIN (last 4 digits)	EPA Engine Family	Appearance of Tampering (Yes/No/TBD)	OBD Data Obtained? (Yes/No)	Observations (e.g., Who Performed Apparent Tampering?)

INSPECTION REPORT

Attached please find the United States Environmental Protection Agency's (EPA's) inspection report of your inspected facility and/or any vehicles/engines identified therein. EPA is providing this report as a matter of agency policy and will contact you again only if needed.

Without making a determination that your business or organization is a small business, EPA is also providing you with a link to this Small Business Resources Information Sheet (<https://www.epa.gov/compliance/small-business-resources-information-sheet>) which provides an array of resources to help small businesses understand and comply with federal and state environmental laws.

Inspection Information	
Inspection Date(s):	5/30/19
EPA Region/Program Conducting Inspection:	Region 9/Enforcement and Compliance Assurance Division
Company Name:	American Muffler
Facility Name:	American Muffler
Facility Physical Location: (street address, building/unit #)	7819 Raytheon Rd.
(city, state, zip code)	San Diego, CA 92111

Inspection Report Revision History		
Revision #	Revision Date	Reason for Revision

Inspector and Approval

Rose Graver
Field Inspector Name

[Signature]
Signature

6/3/19
Date

Mark Salazar
Name of Approving Official

[Signature]
Signature

7.9.19
Date

FACILITY INSPECTION WORKSHEET

(Supplemental notes or narrative format may be used as preferred).

General Inspection Information			
Facility Name:	American Muffler	Inspection Date	Click or tap to enter a date. 5/30/19
Facility Address:	7849 Raytheon Rd. San Diego, CA 92111	Arrival/Departure Time	1:25pm
Primary Facility Representative & Title:	Brett Richardson / Owner	Inspection Number/ID:	201905301325
Facility Contact Phone/Email:	858-277-0276	Inspector(s):	Galer Dancher
Time Inspector Presented Credentials:	1:25pm	Compliance Assistance Reference Materials Provided to Facility	<input checked="" type="checkbox"/> SBREFA Form <input checked="" type="checkbox"/> Exhaust Repair Guidelines
Permission to Enter Facility Granted? If Yes, by whom? If No, explain.	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No Owner denied entry		<input checked="" type="checkbox"/> Memo 1A <input type="checkbox"/> Tampering Brochure <input checked="" type="checkbox"/> Engine Switch Fact Sheet <input type="checkbox"/> Other:
Photographer Name:	Dancher	Photograph Range:	# 4178-4180
Notes (e.g. compliance actions taken by facility, purchased samples, other relevant background, etc.):	Inspectors were denied entry again on 5/30/19. Areas of concern include website advertisements for custom and performance exhaust systems.		

Facility Business Activities			
Types of Services (check all that apply)		Description/Observations (types and brands of parts that are manufactured or sold, types of shop services provided, etc.)	Estimated Throughput (e.g., sales per month, installs per week)
<input type="checkbox"/>	Manufactures aftermarket parts (hardware or software)		
<input checked="" type="checkbox"/>	Sells aftermarket part sales (including drop shipments)	Company website advertises custom and performance exhausts. Owner did not provide any information to inspectors.	unknown
<input checked="" type="checkbox"/>	Service shop	Installation/Repair shop. Appeared to have a pipe bender and metal pipes/raw materials for custom exhausts.	unknown
<input type="checkbox"/>	Fleet		
<input type="checkbox"/>	Other:		

Personnel Interviewed			
Name	Title/Position	Contact Info. (e.g., email, phone number)	Interviewed by (Last name of Inspector)
Brett Richardson	Owner	858-277-0276	Refused interview by inspectors.
* Inspectors had OAC attorney Ryan Bickmore on the phone line to discuss the Agency's authorities for inspection and the Owner/Brett Richardson refused to talk to him.			

Documents Requested		
Document(s)	Status	Notes/Comments
	<input type="checkbox"/> Document(s) Provided <input type="checkbox"/> Will Provide After Inspection	None requested due to denial of entry.
	<input type="checkbox"/> Document(s) Denied <input checked="" type="checkbox"/> Other (see notes)	
	<input type="checkbox"/> Document(s) Provided <input type="checkbox"/> Will Provide After Inspection	
	<input type="checkbox"/> Document(s) Denied <input type="checkbox"/> Other (see notes)	
	<input type="checkbox"/> Document(s) Provided <input type="checkbox"/> Will Provide After Inspection	
	<input type="checkbox"/> Document(s) Denied <input type="checkbox"/> Other (see notes)	
	<input type="checkbox"/> Document(s) Provided <input type="checkbox"/> Will Provide After Inspection	
	<input type="checkbox"/> Document(s) Denied <input type="checkbox"/> Other (see notes)	

[illegible]

